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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,345	11/08/2003	Chih-Yu Hsia		4625
7590	10/18/2004		EXAMINER	
Chih-Yu Hsia 301 Warren Way Arcadia, CA 91007			VALENTI, ANDREA M	
			ART UNIT	PAPER NUMBER
				3643

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/705,345	HSIA, CHIH-YU	
Examiner	Art Unit		
Andrea M. Valenti	3643		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 November 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-26 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is completely illegible.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,196,411 to Nava et al.

Regarding Claims 21 and 24, Nava et al teaches a component consisting of a) a substantially non-transparent plate (Fig. 3 #112.1); b) said substantially non-transparent plate having a rim strip at each rim; c) said rim strip being a substantially non-transparent strip (Fig. 3 the perpendicular portion to #112.1) protruding from said each rim of said substantially non-transparent plate in an about right angle to the top surface of said substantially non-transparent plate; d) said substantially non-transparent plate having a penetrable area (Fig. 4); said penetrable area being a short tube with a

breakable cover said breakable cover being able to allow a substantially pin-lied object to break and penetrate through.

Nava is silent on the penetrable area being in plural form. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely the duplication of a known element for a multiple effect to accommodate a plurality of vertical members.

Regarding Claim 22, Nava teaches said breakable cover being a diaphragm of said short tube of said penetrable area (Fig. 4).

Regarding Claims 23 and 24, Nava teaches the rim strip having a sharp edge (Fig. 7).

Regarding Claim 25, Nava teaches said substantially non-transparent plate having a slightly concave top surface (Fig. 13).

Claims 1-6, 8-16, and 18-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,688 to Revane in view of U.S. Patent No. 4,648,203 to Worzek and U.S. Patent No. 1,276,887 to Eckart.

Regarding Claims 1, 6, 11, and 21, Revane teaches a component for ground covers for trees and bushes consisting of a) a substantially non-transparent plate (Revane Fig. 5 #12 and 14); b) said substantially non-transparent plate having a rim strip (Revane Fig. 7) at each rim; c) said rim strip being a substantially non-transparent strip protruding from said each rim of said substantially non-transparent plate in an about right angle to the top surface of said substantially non-transparent plate; g) said

substantially non-transparent plate having a weakened zone (Revane #40-40c) in plural form; h) said weakened zone spanning inclusively from one said rim strip of said substantially non-transparent plate to the other said rim strip of said substantially non-transparent plate (Revane Fig. 5 and 7) I); a portion of said substantially non-transparent plate being severable along said weakened zone; j) along an edge of each said weakened zone said substantially non-transparent plate having a weakened zone strip which is a substantially non-transparent strip protruding in an about right angle from the surface of said substantially non-transparent plate (Revane Fig. 7).

Revane is silent on d) said substantially non-transparent plate having a penetrable area in plural form; e) said penetrable area being a short tube with a breakable cover; f) said breakable cover being able to allow a substantially pin-lied object to break and penetrate through. However, Worzek teaches a ground cover plate with penetrable area in plural form (Worzek Fig. 3 #24). It would have been obvious to one of ordinary skill in the art to modify the teachings of Revane with the teachings of Worzek at the time of the invention to prevent undesirable displacement of the plate. Revane as modified by Worzek teaches the penetrable areas are already punched out. However, Eckart teaches a ground cover held in place by a short tube with a breakable cover (Eckart Fig. 4 and 2). It would have been obvious to one of ordinary skill in the art to modify the teachings of Revane, as previously modified by Worzek, with the teachings of Eckart at the time of the invention as an alternate equivalent old and well-known means of staking. Providing breakaway openings is notoriously well-known aperture control means that allows the aperture to securely accommodate varying sizes

of vertical devices and the selection of this feature is merely a manufacturing design choice for ease of assembly.

Regarding Claims 2, 12, and 22, Revane as modified teaches a breakable cover being a diaphragm (Eckart Fig. 4) of said short tube of said penetrable area.

Regarding Claims 3, 13, and 23, Revane as modified teaches said weakened zone strip having a sharp edge (Revane Fig. 7).

Regarding Claims 4 and 14, Revane as modified teaches said rim strip having a sharp edge (Revane Fig. 7).

Regarding Claims 5, 15 and 24, Revane as modified teaches said rim strip which will not butt against other said component protruding on both sides of the surfaces of said substantially non-transparent plate (Revane Fig. 7 and 5).

Regarding Claims 8, 16, and 18, Revane as modified teaches said weakened zone being a curve depicted by a series of depressed areas (Revane Fig. 7 #40) on said component.

Regarding Claims 9, 19, and 25, Revane as modified teaches said substantially non-transparent plate having a slightly concave top surface (Revane Fig. 4).

Regarding Claims 10, 20, and 26, Revane as modified teaches said substantially non-transparent plate having a hole (Revane Fig. 5 #70) in plural form for air and water to penetrate through.

Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,308,688 to Revane in view of U.S. Patent No. 4,648,203 to Worzek

and U.S. Patent No. 1,276,887 to Eckart as applied to claim 1 above, and further in view of U.S. Patent No. 3,940,884 to Mason.

Regarding Claims 7 and 17, Revane as modified is silent on the weakened zone being a curve depicted by a series of holes on said component. However, Mason teaches a weakened zone by a series of holes (Mason Fig. 2). It would have been obvious to one of ordinary skill in the art to modify the previously modified teachings of Revane with the teachings of Mason at the time of the invention since the modification is merely an old and notoriously well-known mean of providing a frangible feature selected as a manufacturing design choice.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

United Kingdom Patent GB 2053640; U.S. Patent No. 1,319,769; U.S. Patent No. 5,918,411; U.S. Patent No. 5,711,106; U.S. Patent No. 4,986,025; U.S. Patent No. 5,425,471; U.S. Patent No. 5,522,176; U.S. Patent No. 3,287,851; U.S. Patent No. 3,305,969.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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16 September 2004

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